

REMARKS

Reconsideration of the rejections set forth in the Office Action mailed August 25, 2004, is respectfully requested. Claims 1, 14, 21, 28, and 39 have been amended. Claims 5-6, 18-20, 25-27, 35, and 40-66 have been canceled. Claims 1-4, 7-17, 21-24, 28-34, 36-39, and 67-89 remain pending. Support for the amendments can be found in the specification at, e.g., page 7, line 19 – page 8, line 5; page 8, lines 24-30; page 20, lines 8-18; and page 22, lines 8-15. Therefore, these amendments have been made without the addition of new matter.

35 U.S.C. § 112

Claims 28-34 and 36-39 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In particular, the examiner alleges that the phrase “a combination of the two methods” lacks clear antecedent basis. The phrase has been amended to recite “combinations thereof.”

Claim 39 was rejected as being dependent on a canceled claim. Claim 39 has been amended to depend from claim 28. Therefore, applicants respectfully request withdrawal of the rejections and reconsideration of the claims as amended.

Art Rejections

Claims 1-4, 7-17, 21-24, 28-34, 38, 67, 69, 71-73, 75, 77-82, 84, and 86-89 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Heller et al. (U.S. Patent No. 5,632,957), taken in view of Sosnowski et al. (U.S. Patent No. 6,051,380).

The examiner has broadly interpreted the activation step to include the activation of the buffer for hybridization as described in Sosnowski et al. Claims 1, 14, and 21 have been amended to specify that “*R is activated by a chemical transformation caused by a pH change in an overlying solution generated by providing an electronic potential at at least one electrode of the microarray before reacting with the biomolecules.*” None of the cited references teach or suggest activation of a component of a permeation layer “*by a chemical transformation caused by a pH change in an overlying solution generated by providing an electronic potential at at least one electrode of the microarray.*” Therefore, Applicants respectfully request withdrawal of the rejections and reconsideration of the claims as currently amended.

Allowability

Applicants gratefully acknowledge the examiner’s indication that claims 68, 70, 74, 76, 83, and 85 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Information Disclosure Statement

Applicants note that the **PTO-Form 1449** submitted **February 9, 2004**, was not returned to Applicants with initials in the left-most column. Applicants respectfully request that the Examiner return a copy of this PTO-Form 1449 with the next correspondence. Copies of the foreign and non-patent references have been included for the examiner's convenience.

For all the foregoing reasons, Applicants assert the claims are in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicants' undersigned representative at (949) 737-2900. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-0639.

Respectfully submitted,
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